

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

701 KAR 5:130, Drug Testing of Teachers Involved in Illegal Use of Controlled Substances (Final)

Applicable Statute or Regulation:

KRS 161.175, Teachers involved in illegal use of controlled substances.

Action Question:

Should the Kentucky Board of Education give final approval to 701 KAR 5:130, Drug Testing of Teachers Involved in Illegal Use of Controlled Substances?

History/Background:

Existing Policy. KRS 161.175, enacted in 2006, requires any teacher disciplined for misconduct involving the illegal use of controlled substances as a condition of retaining employment, to undergo random or periodic drug testing for up to one year following the disciplinary action, “in accordance with administrative regulations promulgated by the Kentucky Board of Education”.

KRS 161.175 also requires the Kentucky Board of Education to regulate the drug testing of certified employees who are disciplined for misconduct involving the illegal use of controlled substances.

The Kentucky Board of Education reviewed 701 KAR 5:130 at the August meeting and staff was asked to add language to the regulation indicating a minimum number of times for conducting the tests. This requested language can be found on page 2, lines 7-8 and lines 10-11 of the regulation, which reads (new language is bolded):

- ". . . subject to random **and** periodic drug testing **at least three (3) times** within a period not to exceed twelve (12) months from the date of the determination. A superintendent shall have the discretion to determine the length of the drug testing period within the maximum time permitted, **except two of the tests shall be within two (2) weeks of each other.**"

Other than the language presented above, the regulation is the same as what the Board reviewed in August. Staff is requesting final approval of 701 KAR 5:130.

Staff Recommendation(s) and Rationale(s):

Staff recommends that the Kentucky Board of Education give final approval to 701 KAR 5:130. The promulgation of this regulation responds to the requirements of KRS 161.175.

Groups Consulted and Brief Summary of Responses:

Kentucky School Boards Association staff
Education Professional Standards Board staff
Local Superintendents Advisory Council

The first two groups are in support of the regulation. The Local Superintendents Advisory Council will review the regulation at its next meeting and provide input to the Board via a letter from that group.

Impact on Getting to Proficiency:

This regulation attempts to reduce drug use by school district certified employees through drug testing as a condition to continued employment following discipline for misconduct involving the illegal use of controlled substances. Students need to have teachers who are well prepared and able to provide quality teaching while serving as role models.

Contact Person:

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Interim Commissioner of Education

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